

# FlashPoints



Hazardous Materials and Transportation Safety Newsletter Issue #6

Spring 2001

## Upcoming TSI Classes in Oklahoma City:

**Transportation of Hazmat -Basic** Apr 30-May 4, Jun 11-15, Aug 20-24  
**-Recurrent** May 22-24

**Motor Carrier Safety Regs**  
 May 7-11, Jun 11-15, Aug 20-24

**Air Transportation of Hazmat (ICAO/IATA)** Sep 11-13

**Vessel Hazmat / IMDG Code**  
 Aug 6-10

**Instructor Training** Apr 17-19, Sep 5-7

**Cargo Tanks** Aug 13-17

**Performance-Oriented Packaging** May 8-10

**Haz Wastes & Substances**  
 June 19-22

**Radioactive Materials**  
 Apr 17-20

**Infectious Substances**  
 Apr 11-12, Jul 11-12

**Cylinders** May 2-4, Sep 5-7

**Customized and on-site training also available.**

For more information, or to receive a training brochure, please contact the TSI Hazardous Materials and Transportation Safety Division. Contact information is below.

**FlashPoints** is published quarterly by the **U.S. DOT Transportation Safety Institute, Hazardous Materials & Transportation Safety Division**  
 4400 Will Rogers Parkway, Suite 218, Oklahoma City, OK 73108  
 Phone: (405) 949-0036 x374  
 E-mail: Hazmat@tsi.jccbi.gov  
 Internet: <http://www.tsi.dot.gov>

Information in this newsletter is summary in nature and should not be used as a sole source to determine compliance with transportation and safety regulations. This newsletter is a TSI training tool and materials contained here are **not** considered as official statements, positions, or opinions of the U.S. Department of Transportation.

**To be added/removed from the FlashPoints e-mailing list please contact: Hazmat@tsi.jccbi.gov**

## DOT Changing Drug Testing Rules

The US DOT is changing the regulations on drug testing for motor carriers. The new release of 49 CFR Part 40 has been made available through many sources to aid in compliance preparation prior to the August 1, 2001, applicability date. This is the first step in the tightening of motor carrier drug testing rules to be accompanied by an appropriate re-write of 49 CFR Part 382 by the Federal Motor Carrier Safety Administration (FMCSA).

**Bill Syme**  
 TSI Motor Carrier Safety

Some highlights of the new Part 40 challenges include:

- Creation of a designated employer representative (DER) to handle some tough issues in the process
- Additional management handling steps in the pre-employment test
- Defining an "adulterated" specimen
- Creation of "stand down" criteria
- Five year refresher training intervals for all collection personnel

This regulation needs to be studied at length by all motor carriers that either hire or self collect. The changes can prove significant in how carriers conduct business after August 1st. You can view Part 40 on the internet at:

<http://www.fmcsa.dot.gov/rulesregs/fmcsr/regs/40menu.htm> ♦

## Hazmat Update

In the last issue of FlashPoints we discussed the major changes in hazmat transportation occurring this year, particularly those found in the IMDG Code, ICAO Technical Instructions and IATA Dangerous Goods Regulations. Here is an update on what has been happening with hazmat regulations in early 2001.

**Jon Carter**  
 TSI Staff

### IMO

If you have used the latest IMDG Code, the international regulations for vessel transport of hazmat, you have probably already stumbled across some errors. There have been three sets of "errata" (errors) issued for the 30th Amendment of the IMDG Code. The first errata were issued with the first printing of the new two-volume IMDG Code. These corrections were then incorporated into the second printing of the Code. A second set of errata with additional corrections was then issued for the second printing. After more errors were discovered, a third set of errata was compiled. The third set is not yet in print but is available electronically. All three sets of errata are available on the internet at: <http://www.imo.org/imo/imdg/intro.htm>

The errata don't solve all the

*Hazmat Update, continued on page 2*

*Hazmat Update, continued from page 1*

problems people have with the new IMDG Code. Paragraph 3.1.3.2 indicates proper shipping names for mixtures and solutions “should” show the concentration, such as “ACETONE 75% SOLUTION”. Unlike other hazmat regs, in the IMDG Code it is generally understood that “should” means “must”. Those who don’t know exact concentrations and those who consider concentrations proprietary information will not be happy with this concentration rule. Manny Pfersich, a US Coast Guard representative to the IMO, has said that this was not intended as a requirement and if it became an issue in the US the USCG would be directed not to enforce this concentration rule on shipments prepared under the IMDG Code. However, other countries might indeed enforce this concentration rule until it is changed. Another way around this rule might be within 3.1.3.2. The preceding sentence shows “ACETONE SOLUTION” —without a concentration—as a sample of a PSN.

Another new rule found in the new Code which has made some shippers unhappy is 5.3.2.1.1.2. This requires an ID# to be displayed on a freight container for consignments of “packaged dangerous goods loaded in excess of 4000 kg gross mass to which only one UN number has been assigned.” No, this is not the same rule as before. Previously this rule only applied if the dangerous goods constituted a full load of one commodity—no other cargo in the freight container (see 7.3.3.2.4 of IMDG Code Amdt. 29). The full load requirement has been dropped. This also means you would have to display different ID numbers on a freight container containing different hazardous materials if you have more than 4000 kg gross mass of each dangerous good.

If you don’t like something in the new Amdt. 30 of the IMDG Code, remember, you can still legally use Amdt. 29 of the Code until the end of 2001.

**ICAO/IATA**

There’s not a whole lot to report on with ICAO/IATA air transport regulations since we covered the major changes in our last issue. The latest ICAO Technical Instructions are finally available in print, but remember, they don’t go into effect until July 1, 2001. IATA has also issued a list of “Errors and Amendments” for the 42nd Edition of the IATA Dangerous Goods Regulations (2001). They are available on the

web at: <http://www.iata.org/cargo/dg/> —if at first you don’t see it, scroll down to the very bottom of the web page.

**US DOT**

On February 1st, the DOT published a Final Rule under docket HM-215D in the Federal Register that accepted Amendment 30 of the IMDG Code for use in the US by adding it to the list in 49 CFR section 171.7. Section 171.7 shows the publications that are incorporated by reference in the DOT Hazardous Materials Regulations (HMR). Though section 171.12 of the HMR is where the DOT says you can use the IMDG Code in the US for vessel hazmat shipments, it is section 171.7 that actually tells you which edition of the IMDG Code the DOT is referring to. Because the IMO allows use of Amdt. 29 of the IMDG Code until Jan 1, 2002, the DOT will also continue to accept its use until that date. The effective date for this final rule is July 1, 2001, but the voluntary compliance date is backdated to January 1, 2001.

The DOT also added the 11th Edition of the UN *Recommendations on the Transport of Dangerous Goods*, and the 3rd Edition of the UN *Recommendations on the Transport of Dangerous Goods — Manual of Tests and Criteria* to section 171.7 of the HMR under this same final rule.

The 2001-2002 ICAO *Technical Instructions for the Safe Transport of Dangerous Goods* were not added to 171.7 in this final rule. Since the 2001-2002 ICAO Technical Instructions do not go into effect until July 1, 2001, the DOT has decided to defer the acceptance of these regulations until a later date. Docket HM 215-D is ongoing with this issue.

The latest International Atomic Energy Agency (IAEA) safety standard, *Regulations for the Safe Transport of Radioactive Materials* (formerly known as *ST-1* but now known as *TS-R-1*), was also not incorporated by reference into the HMR with this final rule. Because the latest UN Recommendations and IMDG Code incorporate these IAEA rules, they came in through the back door but 49 CFR section 171.12 still refers IMDG Code users to the old IAEA rules.

A bigger impact will occur if and when the 2001-2002 ICAO Technical Instructions (which

*Hazmat Update, continued on page 4*

## ID Number on Cargo Tank Not Always Exact Indicator of Fuel Being Carried

49 CFR 172.336(c)(5) states that identification numbers are not required for each of the different liquid petroleum distillate fuels, including gasoline and gasahol, transported in a cargo tank, if the identification number is displayed for the liquid petroleum distillate fuel having the lowest flash point.

### A DOT Clarification



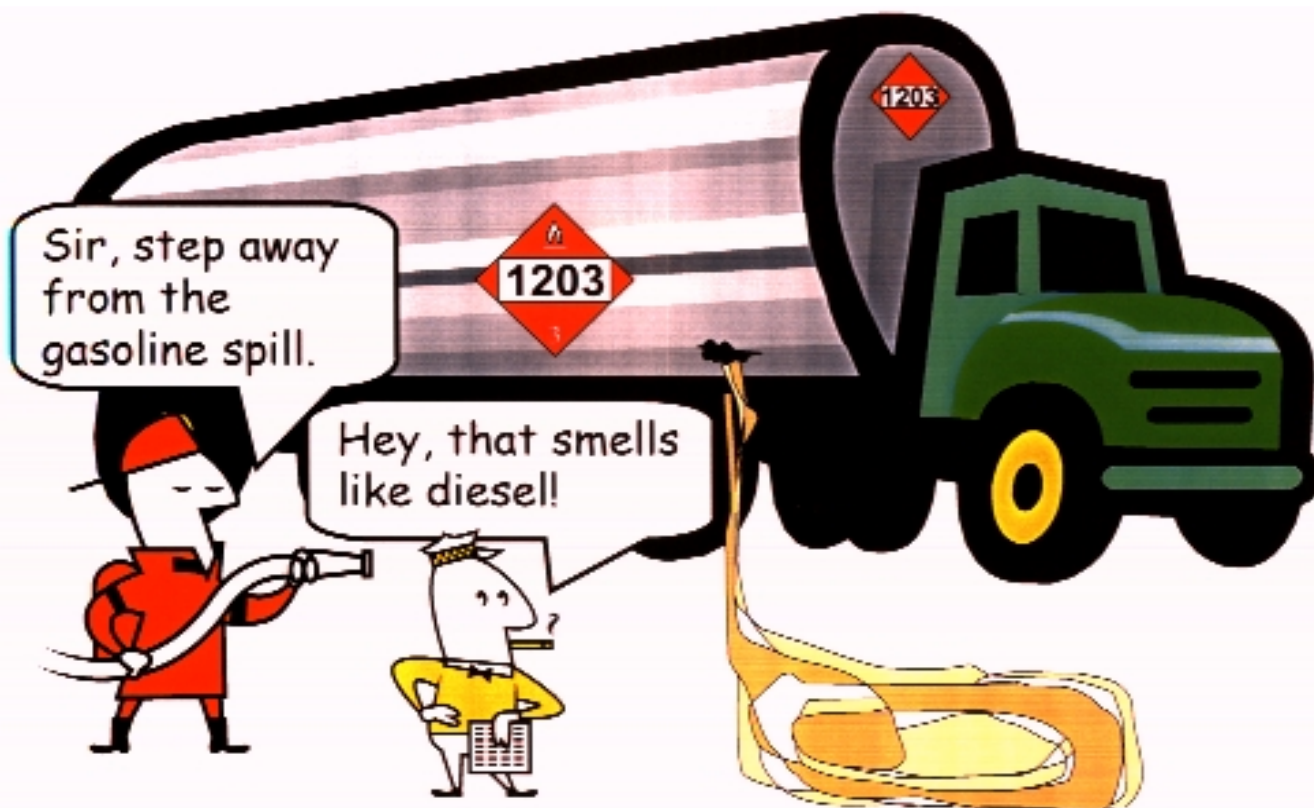
So, does this mean you can carry gasoline in a cargo tank one day and then carry diesel fuel in the same cargo tank the next day with the ID number for gasoline still displayed on the cargo tank? Or does it only mean that when you are carrying gasoline and diesel at the same time you only have to display the ID number for the gasoline? The latter is what one letter-writer believed and he queried the DOT about it.

Here is an excerpt from the DOT's response in a letter of clarification (Ref. No. 00-0208):

"The exception provided by 172.336(c)(5) eliminates the requirement to change the identification number markings on a cargo tank transporting different liquid petroleum distillate fuels if the identification number is displayed for the liquid petroleum distillate fuel having the lowest flashpoint. Therefore, if a cargo tank containing gasoline is marked with the identification number "1203", it may remain so marked on a subsequent trip when the cargo tank contains diesel fuel."

So, a single cargo tank used for delivery of gasoline and other liquid petroleum distillates can display the ID number for gasoline even when hauling diesel and other higher-flashpoint fuels. If you thought this rule only applied to compartmented tanks containing different fuels, see 172.336(c)(4), there's a rule for that too.

Read the rest of this letter and other DOT letters of clarification at <http://hazmat.dot.gov> under the "Rules & Regulations" section. ♦







## Latest Proposed Rules For Infectious Substances

On January 22, 2001, the DOT issued a Notice of Proposed Rulemaking (NPRM) which will, if adopted, revise the transportation requirements for infectious substances, regulated medical waste, diagnostic specimens and genetically modified organisms. The docket number is RSPA-98-3971 and is better known as HM-226. You can view or download this 22-page document at: <http://hazmat.dot.gov/rulemake.htm#nprm> This NPRM is a follow-up to the 1998 Advanced Notice of Proposed Rulemaking on the same subject. Much of the docket is the same as what was seen in HM-226 in 1998 but there have been some significant changes also. Some of the major issues in this proposed rulemaking:

- The original proposal for an "Infectious Substance" placard has been dropped in favor of an OSHA-style "Biohazard" marking for bulk packagings and vehicles that contain bulk packagings.
- Class 6.2 is added to the Materials of Trade exception in section 173.6.
- Diagnostic specimens are still excepted from most DOT requirements but would have packaging requirements (as with ICAO/IATA packing instruction 650). Diagnostic specimens reasonably suspected or known to contain pathogens of Risk Group 4 are classified as infectious substances and regulated as such.
- Bulk packagings for regulated medical waste (RMW) that now exist only through DOT exemptions are added to the regulations for all to use.
- Waste cultures & stocks of infectious substances (Risk Groups 2 & 3) can be transported under the exception for RMW in non-specification containers.

Remember, this is still only a proposed rulemaking and is subject to change before becoming a Final Rule. The comment period for this NPRM is open until April 23, 2001. Refer to the docket for instructions on submitting comments by mail or e-mail. ♦

*Hazmat Update, continued from page 2*

include TS-R-1) are approved for incorporation into 49 CFR, since many more Class 7 shipments are transported on aircraft. (Paragraph 171.11(6) in 49 CFR would also have to change.) Even the transportation definition of "radioactive material" is changed by TS-R-1 so the changes will be immense. Stay tuned for more HM-215D docket action. ♦

## But How Was I Supposed To Know About The Rule Change?!

So what's the deal with the new radioactive regulations? Is the new IMDG Code acceptable to the DOT? When will we hear about the final changes to the regulations on infectious substances? Is my copy of 49 CFR totally out of date? **How Can I Keep Up With All the Rule Changes?**

There was a time when the only way to keep up with the DOT hazmat rule changes and proposed changes was to search through the Federal Register each day to see if the RSPA posted anything that affected hazmat transportation. Or you could also rely on someone else (consultant, trainer, update service, etc.) to get this info to you. Now it's much easier and it doesn't cost a cent. Make a habit of checking the "New Additions & Updates" section of the DOT Hazmat web site once a week (<http://hazmat.dot.gov>). You'll see all the latest updates on rulemakings, reports, meetings, and other helpful information. Die-hards who want the absolute latest info on rulemakings can still check the Federal Register each day at: [http://www.access.gpo.gov/su\\_docs/aces/aces140.html](http://www.access.gpo.gov/su_docs/aces/aces140.html) ♦

